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## INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT dated as of January 15, 1979 (this "Assignment"), by and between BAMERILEASE CAPITAL CORPORATION (the "Lessor" or the "Vendee") and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity but solely as agent under the Participation Agreement (the "Agent") for Metropolitan Life Insurance Company (the "Investor") under a Participation Agreement dated as of the date hereof among the Vendee, the Agent, the Investor and Trailer Train Company (the "Lessee").

WHEREAS the Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with Bethlehem Steel Corporation, Pullman Incorporated (Pullman Standard Division) and ACF Industries, Incorporated (the "Builders"), providing for the sale to the Vendee of such of the units of railroad equipment (the "Units") described in the Annex B thereto as are delivered to and accepted by the Vendee thereunder and the CSA is being assigned to the Agent by the Builders;

WHEREAS the Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter, together with the amendments and supplements thereto, being called the "Lease"), providing for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Lessor under the CSA and as an inducement to the Investor to invest in the CSA Indebtedness as defined in the CSA, the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Agent.

NOW, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 10 hereof, the Lessor hereby assigns, transfers and sets over

unto the Agent, as collateral security for the payment and performance of the Lessor's obligations under the CSA, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity (except sums which by the express terms of the Lease are payable directly to the Lessor pursuant to §§ 6 and 9 of the Lease), liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease and, to the extent received, the Agent will apply such Payments to satisfy the obligations of the Lessor under the CSA then due and payable, subject to the limitations contained in the last paragraph of Article 4 of the CSA, and any balance held by the Agent hereunder for the account of the Lessor shall be deemed to be held in trust for the Lessor and shall be paid immediately to and retained by the Lessor. The foregoing provision shall also be for the benefit of the Builders as third party beneficiaries. If the Agent shall not receive any rental payment under § 3 of the Lease or any payment of Casualty Values under § 7 of the Lease when due, the Agent shall promptly notify the Lessor by telegraphic communication at the address set forth in the Lease. Failure to so notify the Lessor shall not affect the rights and remedies of the Agent hereunder or under the CSA but the Agent (in its individual capacity) shall be liable to the Lessor for damages, if any, arising from such failure.

2. This Assignment is executed only as security for the obligations of the Lessor under the CSA and, therefore, the execution and delivery of this Assignment shall not subject the Agent to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Agent.

3. To protect the security afforded by this Assignment, the Lessor agrees as follows:

(a) The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Agent, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee which are intended to satisfy the obligations of the Lessor under the CSA, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating the Lease and the Lessor agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Lessor fail to make any payment or to do any act which this Assignment requires the Lessor to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Lessor and affording the Lessor a reasonable period of time within which to make such payment or do such act, but without releasing the Lessor from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Lessor contained in the Lease; and in

exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessor will reimburse the Agent for such costs, expenses and fees; provided, however, that the obligations of the Lessor to make reimbursements under this Paragraph 3 are subject to the last paragraph of Article 4 of the CSA.

4. Subject to the provisions of Paragraph 10 hereof, the Lessor does hereby constitute the Agent the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessor's obligations under the CSA, this Assignment, and all rights herein assigned to the Agent in respect thereof shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Lessor without further act or deed, but the Agent shall execute and deliver such documents as the Lessor may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Agent in order to confirm or further assure, the interests of the Agent hereunder.

7. The Agent may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due; provided, however, that if no event of default or Event of Default, or any event which with lapse of time or notice or both would constitute such an event of default or Event of Default under the CSA or the Lease, as the case may be, has occurred and is then continuing, the Agent may only make such an assignment to a domestic bank,

trust company or other lending institution with a combined capital and surplus of not less than \$50,000,000. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder. The Agent will give written notice to the Lessor and the Lessee of any such assignment.

8. This Assignment shall be governed by the laws of the State of California, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Agent at its address set forth in Article 20 of the CSA, or at such other address as the Agent shall designate.

10. The Agent hereby agrees with the Lessor that, so long as no event of default, or any event which with lapse of time or notice or both would constitute such an event of default, under the CSA has occurred and is then continuing, the Agent will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Agent by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the CSA, the Lessor may, so long as no such event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of subparagraph (a) of the first paragraph of § 10 of the Lease; provided, however, the Lessor shall not, without the prior written consent of the Agent, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of subparagraph (b) of said § 10.

11. No recourse shall be had in respect of any obligation due under this Assignment, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor, the Agent or the Investor, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability,

whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Assignment.

12. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall be necessary that any counterpart be executed by both the parties hereto so long as each party shall have executed one counterpart hereof and delivered it to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names, by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

BAMERILEASE CAPITAL CORPORATION,

by

Attest:

[Signature]  
ASST. VICE PRESIDENT

[Signature]  
Vice President  
by [Signature]  
John H. Cassidy  
Asst. Treasurer

MERCANTILE-SAFE DEPOSIT AND TRUST  
COMPANY, as Agent,

by

[SEAL]

Assistant Vice President

Attest:

Corporate Trust Officer

STATE OF NEW YORK,     )  
                                       )   SS.:  
 COUNTY OF NEW YORK,    )

On this 22nd day of February 1979, before me personally appeared T.R. Brandenburg and John H. Cassidy, to me personally known, who, being by me duly sworn, say that they are a Vice President and Assistant Treasurer, respectively, of BAMEERILEASE CAPITAL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Ruth A. Miller  
 Notary Public

[NOTARIAL SEAL]

My Commission Expires

RUTH A. MILLER  
 Notary Public, State of New York  
 No. 31-4515536  
 Qualified in New York County  
 Commission Expires March 30, 1980

STATE OF MARYLAND, )  
                                       )   SS.:  
 CITY OF BALTIMORE, )

On this            day of                    1979, before me personally appeared                    , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

\_\_\_\_\_  
 Notary Public

[NOTARIAL SEAL]

My Commission Expires

## LESSEE'S CONSENT AND AGREEMENT

The undersigned, a corporation duly incorporated under the laws of the State of Delaware, the Lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Assignment"), hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees as follows:

(1) subject to the terms and conditions of the Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease and assigned to the Agent by the Assignment (which moneys are hereinafter called the "Payments") due and to become due to the Lessor under the Lease directly to Mercantile-Safe Deposit and Trust Company, as agent (the "Agent") under the Participation Agreement referred to in the Assignment, to be applied as provided in the Assignment, by bank wire transfer of immediately available funds to the Annapolis Banking and Trust Company, Main Street and Church Circle, Annapolis, Maryland, for credit to the Agent's Account No. 52076-1, with a request that the Annapolis Banking and Trust Company advise Mrs. K. M. Tollberg, Assistant Vice President, Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, that the funds are "Re: TTX 1/15/79" (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) agrees, subject to the terms and conditions of the Assignment, that the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease as though the Agent were named therein as the Lessor;

(3) agrees that the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(4) agrees that the Lease shall not, without the prior written consent of the Agent, be amended, terminated or modified, or any action be taken or omitted

by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of the Lessee under the Lease which are intended to satisfy the obligations of the Lessor under the CSA, the obligations of the Lessor, under the Assignment or the obligations of the Lessee under this Consent and Agreement or of any of the rights created by any thereof; and

(5) will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the CSA and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of January 15, 1979

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Attest:

Vice President--Finance

Assistant Secretary

Accepted:

MERCANTILE-SAFE DEPOSIT AND TRUST  
COMPANY, as Agent,

[SEAL]

by

Attest:

Assistant Vice President

Corporate Trust Officer